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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,177	04/09/2001	John C. Goodwin III	9303.00	9228

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EXAMINER

LEE, DIANE I

ART UNIT PAPER NUMBER

2876

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/829,177

Applicant(s)

GOODWIN, JOHN C.

Examiner

Diane I. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-12 are presented for examination.

Claim Objections

2. Claim 12 is objected to because of the following informalities:
 - (a) Re claim 12, line 4: "the first identification" should be changed to --the second identification --. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4-7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnsen [US 5,151,684, cited by the applicant].

Re claims 1-2, 5, 7, and 9: Johnsen discloses an item processing system (see the abstract, and figures 3-4), comprising:

a bar code reader (scanner 50) included in a housing 52(see figures 3-4 and 7);

a radio frequency product label interrogator 74, in the same housing, coupled to the bar code reader (see figures 3-4 and 7);

a computer 92, which obtains first identification information from the bar code reader and second identification from the radio frequency product label interrogator (see col. 7, lines 14+ and figures 4 and 7);

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activating an item processing device 54, 58, 64 including a bar code reader to obtain first identification information from an item and a radio frequency product label interrogator to obtain second identification information from the item (see col. 9, lines 13+ and figure 7);

if the item has a bar code label, obtaining the first identification information by the bar code reader; and if the item has a radio frequency product label, obtaining the second identification information by the radio frequency product label interrogator (see col. 9, lines 13+ and figure 7). Figure 7 shows the tag having both the bar code label and the radio frequency product label, identifying the item using both the first and second identification information.

Re claims 4 and 6: Johnsen discloses the item processing device having a bar code reader 50 included in a housing 52, a radio frequency product label interrogator 74 coupled to the bar code reader, and wherein the housing includes a control circuitry 72 obtaining a first identification information from bar code labels, and a communication port coupled to the control circuitry for obtaining second identification information from a radio frequency product label (i.e., the data connectivity between the radio frequency product label interrogator and the control circuitry).

5. Claims 1-2, 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruppert et al. [US 5,640,002-cited by the applicant].

Ruppert discloses an item processing device, comprising:

a bar code reader (PID unit 298, 322) including a housing (see figures 16, 19);

wherein the bar code reader including control circuitry 320 for obtaining first identification information from bar code labels 506 (see figures 19 and 27); and

a communication port coupled to the control circuitry for obtaining second identification information from a radio frequency product label interrogator 314, which provides the second identification information to the communicator port and coupled to the bar code reader in the housing(see figures 16, 19).

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6. Claims 1-2, 4-5 is rejected under 35 U.S.C. 102(b) as being anticipated by Kashi [JP-2001-052105-cited by the applicant].

Kashi discloses an item processing device (see the abstract, and figures 1-2), comprising:

a bar code reader 10, 11, 12 included in a housing 52(see figures 1-2);

a radio frequency product label interrogator 13, in the same housing, coupled to the bar code reader (see figures 1-2);

a computer 14, which obtains first identification information from the bar code reader and second identification from the radio frequency product label interrogator (see figures 1-2);

a communication port coupled to the control circuitry for obtaining second identification information from a radio frequency product label (i.e., the data connectivity between the radio frequency product label interrogator and the control circuitry.

activating an item processing device 10d including a bar code reader to obtain first identification information from an item and a radio frequency product label interrogator to obtain second identification information from the item (see figure 2);

if the item has a bar code label, obtaining the first identification information by the bar code reader; and if the item has a radio frequency product label, obtaining the second identification information by the radio frequency product label interrogator (see figure 1). Wherein the non-contact ID tag having both the bar code label and the radio frequency product label, identifying the item using both the first and second identification information (see the abstract).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruppert. The teachings of Ruppert have been discussed above.

Ruppert does not teach the scale within the housing of the bar code reader.

Since items are not all identifiable via a bar code or a radio frequency product label, such as vegetable, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the scale in order to identify the purchased item via its weight such as item price that is variable according its weight. Accordingly, such modification would have allowed the customer to handle greater the items such as a vegetable the bar code or the radio frequency product label.

9. Claims 3 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnsen. The teachings of Johnsen have been discussed above.

Re claim 3: Johnsen does not teach the scale within the housing of the bar code reader.

Since items are not all identifiable via a bar code or a radio frequency product label, such as vegetable, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the scale in order to identify the purchased item via its weight such as item price that is variable according its weight. Accordingly, such modification would have allowed the customer to handle greater the items such as a vegetable the bar code or the radio frequency product label.

Re claims 10-12: Johnsen is silent with respect to the specific information of the tag with respect to the association of the first information and the second information.

Since Johnsen teaches that the device of his invention in communication with the tag to identify the piece of merchandise (see col. 2, lines 59+), it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to modify the tag identification to include pricing information with respect to the association of the first information and the second information to clearly

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identify the of merchandise for transaction purpose. Accordingly, it would have been an obvious extension as taught by Johnsen, therefore, it would have been an obvious expedient.

10. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiyoshi [GB 2 284 083-cited by the applicant] in view of Johnsen. The teachings of Johnsen have been discussed above.

Kiyoshi discloses a check-out system and POS system having a conveyor 51 for transporting commercial products, a transport control unit, a product sensor 52 for optically detecting the product, and a scanner 52 for obtaining the first identification information by reading the label of the product code (see page 18, lines 10+). Kiyoshi teaches the process of sensing the product optically by the product sensor 52, and activating the bar code reader in response to sensing the item by the system.

Although Kiyoshi teaches the item processing device including a bar code reader to obtain first identification information from the product if the item has a bar code, Kiyoshi does not disclose the step of activating the item processing device and the item processing including a radio frequency product label interrogator to obtain second identification information from the item.

Johnsen teaches the step of activating the item processing device and the item-processing device including a radio frequency product label interrogator to obtain second identification information from the item if the item has a radio frequency product label (see the discussion above).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the item-processing device having a bar code reader and a radio frequency product label interrogator in the system of Kiyoshi in order to process the item having a radio frequency product label. Such modification would have been an obvious extension taught by Kiyoshi. Accordingly, it would have been an obvious expedient.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Reynolds et al. [US 6,286,762], Kumar [US 5,902,991] and Johnsen [US 5,250,789] discloses an item-processing device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane I. Lee whose telephone number is 703-306-3427. The examiner can normally be reached on Monday through Friday from 6:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Diane I. Lee
Primary Examiner
Art Unit 2876

December 9, 2002